

REMARKS

**Status of Claims:**

Claims 11, 12 and 21-33 are cancelled without disclaimer or prejudice. Claims 1, 13, 16, 20 and 37 are amended. Claims 1-10, 13-20 and 34-43 are pending in the application.

**Oath/Declaration**

The oath or declaration is objected to as being defective. Applicant respectfully traverses the objection. The Examiner asserts that the declaration does not comply with 37 CFR 1.67 (a). In particular, 37 CFR 1.67 (a) requires that oaths and declaration comply with requirements of 37 CFR 1.63 including 1.63 (b) (3). Specifically, 1.63 (b) (3) recites that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

Applicant respectfully notes that in 1327 Official Gazette 112 & 113 (Published February 12, 2008), the USPTO expressly waives this requirement for pending applications, where the oath or declaration was filed prior to June 1, 2008. The declaration in the current application was filed on June 2, 2004. Thus, the applicant respectfully asserts that the submitted declaration is in compliance with 37 CFR 1.63, as defined in 37 CFR 1.56 under the current PTO rules. Therefore, applicant respectfully requests withdrawal of the objection to the declaration.

Moreover, the submitted declaration states that the inventor “acknowledge the duty to disclose information which is material to examination of this application in accordance with Title 37, Code of Federal Regulations Section 1.56 (a).” The language (as used in applicant’s declaration) was specified by the USPTO and was widely used prior to the 1992 amendment of 37 CFR 1.63(b).

The USPTO explicitly stated that the pre-1992 oaths comply with the now used language and would continue to be accepted by the Office. In its affirmation, the USPTO stated:

“Reply: The averments in oath or declaration forms presently in use that comply with the previous § 1.63 or § 1.175 will also comply with the requirements of the new rules. Therefore, the office will continue to accept the old oath or declaration forms as complying with the new rules.” See, 57 FR 2034 (emphasis added).

Therefore, applicant respectfully requests withdrawal of the objection to the declaration.

### **Claim Rejections – 35 USC § 112**

Claims 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16, as amended, recites, the method of Claim 1, further comprising compiling a second calibration array of data values relating to the sensor; adjusting the nominal output current of the sensor a second time based on data in the second calibration array. Claim 16, as amended recites compiling a second calibration array that is used for adjusting the nominal output current of the second a second time. Thus claim 16 satisfies the requirements of 35 U.S.C 112, second paragraph.

Claim 20 is amended to recite, “establishing a new sensor output based on the adjusted calibration curve and the twice adjusted nominal output current.” Claim 20 depends from claims 1 and 16. Claim 1 adjusts the nominal output current a first time. Claim 16 adjusts the nominal output current a second time. Thus the nominal current has been twice adjusted.

Therefore, the applicants’ respectfully assert that claims 16 and 20 satisfy the requirement of 35 U.S.C 112, second paragraph.

### **Allowable Subject Matter, Claim Rejections under 35 USC § 102 and 35 USC § 103**

Claims 12, 13, and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base

claim and any intervening claims. Allowable claim 37 is amended to include all of the features of the base claims and any intervening claims. Allowable claim 12 is cancelled without prejudice and the subject matter of allowable claim 12 and intervening claim 11 is added to claim 1, placing claim 1, in condition for allowable.

Claims 1-11, 14-20, 34-36 and 38-43 are rejected under 35 USC § 102 or 35 USC § 103. These rejections are respectfully traversed because subject matter of allowable claim 12 and intervening claims 11 is added to independent claim 1. Thus claim 1 is believed to be allowable. Claims 2-11, 14-20, 34-36 and 38-43 are believed to be allowable for at least the same reasons claim 1 is allowable.

**Conclusion:**

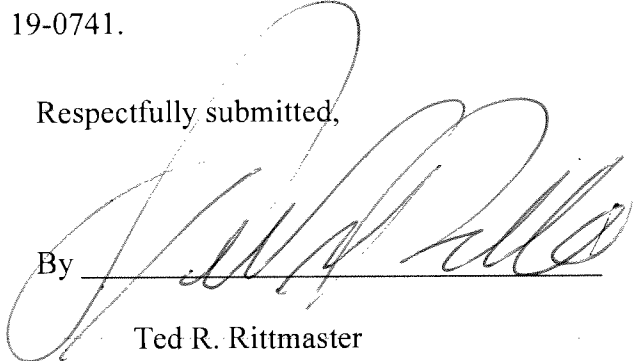
The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 2-14-08

By 

FOLEY & LARDNER LLP  
Customer Number: 23392  
Telephone: (213) 972-4594  
Facsimile: (213) 486-0065

Ted R. Rittmaster  
Attorney for Applicant  
Registration No. 32,933